



# UNITED STATES PATENT AND TRADEMARK OFFICE

12

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/081,987

02/22/2002

Ka K. Ho

2204/C25

9964

34845

7590

02/22/2005

STEUBING AND MCGUINESS & MANARAS LLP  
125 NAGOG PARK  
ACTON, MA 01720

EXAMINER

TON, DANG T

ART UNIT

PAPER NUMBER

2666

DATE MAILED: 02/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/081,987	<b>Applicant(s)</b> HO ET AL.	
	<b>Examiner</b> DANG T TON	<b>Art Unit</b> 2666	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-22 is/are allowed.
- 6) ☒ Claim(s) 1,2,7-11, and 13 is/are rejected.
- 7) ☒ Claim(s) 3-6, 12 and 14-18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/25/2003</u> . | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 2666

1. Claims 1-12 are objected to under 37 C.F.R 1.75 because of the following formalities:

In claim 1 line 4, "establishedand" should change to --- established and ---.

Claims 2-12 are objected since they depend from claim 1.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1,2, and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Hsu ( 6,363,319).

For claims 1,2,and 9, Hsu discloses a system comprising :  
a plurality of MPLS devices (see boxes 122 B1 to 122 BN in figure 1B), wherein a plurality of service tiers having

Art Unit: 2666

different combinations of class of traffic and level of service are established and traffic is separated by at least one MPLS device based upon the plurality of service tiers (see column 1 lines 50-59);

wherein a plurality of label switched path resource classes are reserved for signaling the plurality of service tiers (see column 1 lines 50-59); and

wherein the plurality of MPLS devices comprises a standard MPLS device configured to separate traffic for each service tier (see column 2 lines 50-57 and column 3 lines 1-9).

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Art Unit: 2666

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 7,8,10,11,and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsu in view of Elliott et al. ( 6,614,781) .

For claims 7,8,10,11, and 13, Hsu discloses all the subject matter of the claimed invention with the exception of establishing a queue for each service tier and a multiple levels of service for a single class of traffic in a communications network. Elliott et al. from the same or similar fields of endeavor teaches a provision of creating a plurality of queues in order to protect database integrity high, medium and low priority queue (see column 89 lines 36-37). Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use establishing a queue for each

service tier and a multiple levels of service for a single class of traffic as taught by Elliott et al. in the communications network of Hsu.

The establishing a queue for each service tier and a multiple levels of service for a single class of traffic can be implemented/modified into the network of Hsu by using the central server in figure 1A to perform this scheduling scheme. The motivation for using establishing a queue for each service tier and a multiple levels of service for a single class of traffic as taught by Elliott et al. into the communications network of Hsu being that it protects data integrity in the system and provides a simple and efficient method to select routes in a system of networks.

5. Claims 3-6 ,12, and 14-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 19-22 are allowed.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Chiu et al. ( 6,385,170) is cited to show a system which is considered pertinent to the claimed invention.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANG T TON whose telephone number is 571-272-3171. The examiner can normally be reached on MON-WED, 5:30 AM-6:00 PM and Thur 5:30-9:30 A.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RAO SEEMA can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/081,987

Page 7

Art Unit: 2666

D. Ton

A handwritten signature in black ink, appearing to be 'D. Ton', with a stylized flourish at the end.

DAN TON  
PRIMARY EXAMINER